IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 54 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

M/S.GOLDEN SAT ISABGOL FACTORY

Appearance:

1. INCOME TAX REFERENCE No. 54 of 1986

MR B.B.NAYAK FOR MR MANISH R BHATT for Applicant.

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 03/08/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1 At the instance of the revenue, the following two questions have been referred to this Court for its opinion under the provisions of section 256(1) of the Income Tax Act,1961 (hereinafter referred to as 'the Act').

"i Whether both deductions u/s.80HH and 80J of the Income-tax Act,1961 are allowable in law to the assessee in full ?

ii Whether, when the relief u/s.80HH had exceeded the relief admissible u/s.80J of the Income-tax Act,1961 the assessee was entitled to relief under both the sections 80HH and 80J in full ?"

2 We have heared learned Advocate Mr.B.B.Nayak appearing for the applicant-revenue. Though served no body has appeared for the respondent-assessee.

3 Looking to the law laid down by this Court in I.T.R.No.282 of 1985 decided on 14/6/2001, we answer both the questions in the affirmative i.e. in favour of the assessee and against the revenue.

4 The Reference thus stands disposed of accordingly with no order as to costs.

Sd/- Sd/-
(A.R.Dave, J) (D.A.Mehta,J)

m.m.bhatt